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Attorney for Creditors Margaret B.
McGimsey Trust, Bruce McGimsey,
Jerry McGimsey, Sharon McGimsey
and Johnny Clark

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:) Case No. BK-S-06-10725 LBR
USA COMMERCIAL MORTGAGE COMPANY,) Case No: BK-S-06-10726 LBR
Debtor.) Case No. BK-S-06-10727 LBR
Case No. BK-S-06-10728 LBR
Case No. BK-S-06-10729 LBR

Chapter 11

**USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,**

Debtor.

**USA CAPITAL FIRST TRUST DEED
FUND, LLC,**

Debtor.

USA SECURITIES, LLC,

Debtor.

**APPELLANTS' STATEMENT OF
ISSUES AND DESIGNATION OF
RECORD ON APPEAL**

Appeal Ref. No. 07-06

Affects:

- All Debtors
 - USA Commercial Mortgage Company
 - USA Securities, LLC
 - USA Capital Realty Advisors, LLC
 - USA Capital Diversified Trust Deed)
Fund, LLC
 - USA First Trust Deed Fund, LLC

No Hearing Date

Pursuant to Bankruptcy Rule 8006 and LR 8006, Appellants Margaret B. McGimsey Trust, Bruce McGimsey, Jerry McGimsey, Sharon McGimsey and Johnny Clark hereby file their statement

1 of issues and designation of record on appeal as follows:

2 STATEMENT OF ISSUES

3 1. Whether the Bankruptcy Court erred in determining these Appellants do not have
4 creditors' claims because any claim for damages arising from the purchase and sale of a security
5 cannot be a creditor's claim under the U.S. Bankruptcy Code.

6 2. Whether the Bankruptcy Court erred in ruling that objections to Appellants' claims based
7 on §510(b) of the U.S. Bankruptcy Code which deals with the subordination of claims did not need
8 to be brought as an adversary proceeding, notwithstanding the language of Rule 7001.

9 3. Whether the Bankruptcy Court erred in sustaining the objection of the Official Committee
10 of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC to Appellants' creditor
11 claims.

12 4. Whether the Official Committee of Equity Security Holders of USA Capital Diversified
13 Trust Deed Fund, LLC has any standing to object to these creditor claims pursuant to 11 U.S.C. 510.

15 DESIGNATION OF RECORD

<u>No.</u>	<u>Document</u>	<u>Docket Date</u>	<u>Docket No.</u>
1	Margaret B. McGimsey Proof of Claim in USA Capital Diversified Trust Deed Fund, LLC	11/13/06	10727-129
2	Sharon or Jerry McGimsey Proof of Claim in USA Capital Diversified Trust Deed Fund, LLC	11/13/06	10727-130
3	Johnny Clark Proof of Claim in USA Capital Diversified Trust Deed Fund, LLC	11/13/06	10727-131
4	Bruce McGimsey Proof of Claim in USA Capital Diversified Trust Deed Fund, LLC	11/13/06	10727-136
5	Omnibus Objection of the Official Committee of the Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC to Claims on Equity Misfiled as Creditor Claims	11/30/06	1891
6	Notice of Hearing of Omnibus Objection to Claims on Equity Misfiled as Creditor Claims by Karen Petersen Tyndall Trust, KPT Irrevocable Trust Dated 7/16/99, William M. Spangler, Jean A. Spangler, Gary Michelsen, John E. Michelsen Family Trust, Margaret B. McGimsey Trust, Miriam B. and George J. Gage, George J. Gage Trust and Sharon or Jerry McGimsey	11/30/06	1899

<u>No.</u>	<u>Document</u>	<u>Docket Date</u>	<u>Docket No.</u>
7	Notice of Hearing of Omnibus Objection to Claims on Equity Misfiled as Creditor Claims by Johnny Clark, Bruce McGimsey, Castulo O. Martinez, Helen N. Graeber, Eric T. and Dolores V. Erickson, Carol Ann Turner, Terry L. Hansen Revocable Living Trust, John A. Godfrey Pinnacle Entertainment, Inc., Douglas Carson and Robert A. Susskind	11/30/06	1900
8	Response to Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund Claims on Equity Misfiled as Creditor Claims by Bruce McGimsey	12/26/06	2267
9	Response to Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund Claims on Equity Misfiled as Creditor Claims by Johnny Clark	12/26/06	2268
10	Response to Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund Claims on Equity Misfiled as Creditor Claims by Sharon McGimsey of Jerry McGimsey	12/26/06	2269
11	Response to Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund Claims on Equity Misfiled as Creditor Claims by the Margaret B. McGimsey Trust	12/26/06	2270
12	Response to Limited Reply to Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC to Wrong Debtor Claims Misfiled Against USA Capital Diversified Trust Deed Fund, LLC	12/28/06	2318
13	Omnibus Reply to Responses to Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC to Claims on Equity Misfiled as Creditor Claims	12/28/06	2319
14	Supplemental Brief in Support of Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC, to Claims Nos. 90, 93, 94, 95, 129, 130, 131 and 136 Filed Against USA Capital Diversified Trust Deed Fund, LLC, by McGimseys and Johnny Clark	01/17/07	2462
15	Points and Authorities re Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC to Creditor Claims of Johnny Clark, Bruce McGimsey, Jerry and Sharon McGimsey, and Margaret B. McGimsey Trust	01/17/07	2454

	<u>No.</u>	<u>Document</u>	<u>Docket Date</u>	<u>Docket No.</u>
1	16	Order Sustaining Omnibus Objection of the Official Committee of Equity Security Holders of USA Capital Trust Deed Fund, LLC, to Claims on Equity Misfiled Against USA Capital Diversified Trust Deed Fund, LLC as Creditor Claims	02/14/07	2765
2	17	Transcript of the Omnibus Objection to Official Committee of Equity Security Holders of USA Diversified Trust Deed Fund to Claims on Equity Misfiled as Creditor Claims hearing held on January 31, 2007		
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8 DATED this 23rd day of February, 2007.

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10 s// William L. McGimsey
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15 McGimsey Trust, Bruce McGimsey,
16 Jerry McGimsey, Sharon McGimsey
17 and Johnny Clark

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